IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.02.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.154 of 2006

Babulal Bohra ... Petitioner

vs.

1.The Commissioner of Police,
Chennai-8.

2.The Assistant Commissioner of
Police, Peravallur,
Chennai.

3.The Inspector of Police,
Thiru.Vi.Ka. Nagar Police Station,
Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct respondents 1 to 3 to produce before the Court, the detenu, petitioner's son Pannalal Bohra, who is illegally detained by the third respondent and set him at liberty.

For Petitioner : Mr.H.Rajasekar
For Respondents : Mr.M.K.Subramanian
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner has filed this petition seeking direction to respondents 1 to 3 for production of his son Pannalal Bohra, who according to him is illegally detained by the third respondent, and set him at liberty.

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2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. Pursuant to the direction of this Court, the third respondent has filed a counter affidavit stating that the petitioner's son Pannalal Bohra was married to one Chandrakala on 28.02.2002 and they were living at No.8, P.V. Koil Street, Royapuram, Chennai-600 013 as joint family and the said Pannalal Bohra developed difference of opinion against his wife over dowry and other family matters and in July, 2005, he filed a petition for separation before the Family Court, Chennai. Whileso, on 6.02.2006 at about 7.00 hours, the petitioner along with his family members and relatives, trespassed into the residential premises of Rajendrakumar, father of Chandrakala (daughter-in-law of the petitioner) at 2-A/11, Thanikachalam Street, Perambur, Chennai-11 and threatened Rajendrakumar, his wife Lalitha and their other family members with dire consequences and assaulted them with hands and legs with an intention to get the consent for divorce from Chandrakala forcibly. In this connection, the mother Lalitha gave a report, on the strength of which, the Sub Inspector of Police, Law and Order, registered a case in K-9, Thiru-Vi-Ka Nagar Police Station Crime No.248/06 under Sections 147, 148, 448, 336, 427, 352, 323, 354, 355, 204(b) and 506(ii) IPC at 8.00 hours on 6.02.2006.

4. It is further submitted that based on the said complaint, in the course of investigation, the Sub Inspector of Police visited the petitioner's house on 6.2.2006 for enquiry. The petitioner and his son Pannalal Bohra were not available there. The third respondent has denied the other allegations made in the petition. As on date, the petitioner and his son Pannalal Bohra are at large. It is further stated that as a cognizable offence was reported, the police were on the lookout for the petitioner and his son Pannalal Bohra. The third respondent further submitted that the petitioner, fearing arrest in K-9 Thiru-Vi-Ka Nagar Police Station Crime No.248/06, has made frivolous accusations on the police and he denied the other allegations made in the petition.

5. Pursuant to the counter affidavit of the third respondent dated 10.02.2006, the detenu Pannalal Bohra has sworn to an affidavit dated 11.2.2006, wherein he has denied the statements made by the third respondent in his counter affidavit. Apart from narrating the family dispute and the matter which is pending before the Family Court, he has also alleged that all along from 6.30 a.m. on 07.02.2006 to 11.00 p.m. on 9.02.2006, he was under the illegal custody of respondents 2 and 3, for which he seeks appropriate action against them. He also alleges that he had been robbed of 302 grams of jewels and money by respondents 2 and 3.

6. We have gone through the averments made in the affidavit of the petitioner, the counter affidavit filed by the third respondent denying all the allegations as well as the subsequent affidavit filed by the detenu dated 11.02.2006. It is not in dispute that the petitioner and his son had some family problem with his daughter-in-law, the wife of the

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detenu. It is also seen that as on date, a complaint has been lodged against the petitioner and his son in K-9, Thiru-Vi-Ka Nagar Police Station Crime No.248/06. It is also brought to our notice that the detenu has already approached the Family Court to vindicate his grievance.

7. In the light of the factual details, allegations and counter allegations and also taking note of the admitted fact that as on date the detenu is with the petitioner, we are of the view that no further adjudication is required in this petition and the parties are at liberty to move the appropriate forum to vindicate their grievance, if any and accordingly, the Habeas Corpus Petition is closed.

raa

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Commissioner of Police, Chennai-8.

2.The Assistant Commissioner of Police, Peravallur, Chennai.

3.The Inspector of Police, Thiru.Vi.Ka. Nagar Police Station, Chennai.

4. The Public Prosecutor, High Court, Madras.

1 cc To Mr.H.Rajesekar, Advocate, SR6506.

H.C.P.No.154 of 2006

BK(CO)
RVL 17.02.2006

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